

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE INVESTIGATION)	
INTO THE ADOPTION OF PROPOSED RULES)	
AND REGULATIONS TO ACCOMPLISH)	PSC REGULATION
INTEGRATED RESOURCE PLANNING FOR THE)	DOCKET NO. 60
PROVISION OF STANDARD OFFER SERVICE)	
BY DELMARVA POWER & LIGHT COMPANY)	
UNDER 26 DEL. C. § 1007(c) & (d))	
(OPENED AUGUST 21, 2007))	

Closing Argument of Jeremy Firestone

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Pro Se

I argue in favor of the following changes. I have not cited to the record because I was unable to obtain a transcript from the PSC staff despite the fact that under PSC policy a transcript should have been available on March 29 per an email I received from Karen Nickerson. Further, given that I am representing myself, and this is a transcript, not of a deposition, but of an evidentiary hearing, and given your order that we cite to the transcript—fundamental fairness, openness, and due process, require that I be provided a copy of the transcript. As such, I reserve the right to supplement this closing argument, when a transcript is made properly available.

In accordance with your order, and despite Delmarva' baseless complaint to the contrary¹, I am attaching a two-page addendum of proposed language changes.

1. The proposed change to 1.1 deletes the word "efficient" as it appears to be either redundant of the term "cost-effective" or likely to lead to confusion, particularly give staff was unable to articulate clearly how the terms differed or what was meant by "efficient"
2. The regulations should clearly spell out the effect of the IRP regulations to the present Delmarva IRP to avoid future disagreements, which will have the effect of imposing costs on the ratepayers and the parties. This need is underscored by the Staff's March 25 letter to Delmarva in docket # 07-20, setting forth numerous deficiencies. Given that the filed IRP is in effect in complete, and discovery will not commence in that docket until June, the proposed changed to section 1.2, requiring filed IRP to comply with the rule to the maximum extent practicable is prudent and necessary.
3. The proposed change to section 1.7, 2.0, and 9.3, clarifies that this is an approval not a mere acknowledgement. The use of the word acknowledgement caused much confusion as is evident by the time that was spent on the issue at the hearing. An acknowledgement implies a mere recognition, while it is clear from the colloquy with staff that an approval is what is actually occurring. The proposed change also clarifies

¹ Delmarva was present at the hearing, had an opportunity to cross-examine witnesses, and had the opportunity to object to process of the hearing examiner at the evidentiary hearing. Delmarva should not be now heard to claim foul.

when the approval takes place and leaves as is the statement that it does not imply ratemaking approval (see also October 11 comments, comment 3).

4. I also propose a change to the definition of “price stability.” As this hearing examiner noted at the hearing defining “stability” as a “variation” is an oxymoron. Here, I define it as a lack of variation and draw from the definition given by Alan Greenspan in my October 11 comments (comment 9).
5. The proposed change to the definition of “environmental benefit,” clarifies that it includes health effects. The staff’s view that it may or may not or that it depends is not sufficient, provides too much discretion to the decision-makers. Nor does it have any support, let alone be supported by substantial evidence. By putting in place a standardless standard, it is arbitrary and capricious and can only lead to decisions based on whims (also see October 11, 2007 comments, comments 4 and 18).
6. The staff’s proposed section 5.7 was a change made at the behest of Delmarva. The staff/Delmarva proposal would appear to farm out the requirement that Delmarva undertake an independent evaluation of demand-side management, although this is not entirely clear given the ambiguity created between what is required of Delmarva under 5.7 and what is required of it under 4.5—namely, that Delmarva analyze DSM. Also, Exhibit 7, the document authored by Senator McDowell and John Byrne, co-chair of the SEU Task Force, provides support that the SEU does not see a static relationship, one-size fits all relationship with Delmarva, rather that the SEU could undertake programs under contract to Delmarva, engage in collaborative planning with Delmarva or be in competition with Delmarva. The proposed language change put forth here would allow

that vision and, consistent with Section 4.5, clarifies that Delmarva can consider the SEU proposals, but must undertake its own analyses. Further, as pointed out by the Mr. Citrolo, Deputy Public Advocate, the SEU only exists on paper and has been so far unable to secure the necessary bonding to become operational, it makes no sense to essentially codify a role for the SEU.

7. Section 6.13, concerns externalities. The proposed change clarifies that health costs are included and that a life cycle analysis be undertaken (see October comments, comments 4 and 18). Again, staff could not say whether health costs would be included. In light of the fact that the staff proposal did not mention health costs, they were asked whether they were familiar with any studies of external costs of electricity generation and whether they had consulted any such studies. They indicated that they had not. As such, there is no basis in the record to support the staff's conclusion. Staff is directed to and this hearing examiner is asked to take judicial notice of, e.g, a European Commission document—the 2003 European Commission study on External Costs: Research Results on socio-environmental damages due to electricity and transport, which discuss externalities, health costs, and life-cycle analysis

(<http://www.externe.info/externpr.pdf>).

In sum, these are common sense changes, which remove ambiguity and clarify meaning, which can only be for the good. The staff's desire for the rules to provide the Commission with essentially unlimited discretion leave the public and the ratepayers with a rule that is neither fair nor efficient.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremy Firestone". The signature is fluid and cursive, with the first name "Jeremy" and last name "Firestone" clearly distinguishable.

Jeremy Firestone
11 October 2007

Addendum

Jeremy Firestone's Proposed Language Changes

- 1.1. The Reliability of electric service and the security of energy supply are of great importance to the Delaware Public Service Commission ("Commission"), because they are essential services to the citizens of Delaware. This regulation, in support of 26 Del. C. §1007, sets forth the minimum Delmarva Power and Light ("DP&L" or "Company") Integrated Resource Plan ("IRP" or "the Plan") requirements needed to ensure a cost effective, price stable, reliable, ~~efficient~~ and environmentally sound energy supply for all Standard Offer Service ("SOS") customers.
- 1.2. In accord with 26 Del. C. §1007, DP&L, as the Standard Offer Service Supplier, shall file an IRP on December 1st, 2006 and on the anniversary date of the first filing date every other year thereafter (i.e. 2008, 2010 et seq.). The Company may request and the Commission may change the filing date for good cause shown. These regulations shall apply to all IRPs filed pursuant to 26 Del. C. §1007. ~~These regulations shall not apply to an IRP docket opened prior to the effective date of these regulations. An IRP filed prior to the date of these regulations but not yet approved by the Commission shall be consistent with these rules to the maximum extent practicable.~~
- 1.7. Commission ~~Approval Acknowledgement~~ of an ~~filed~~ IRP implies only that the plan is in compliance with this regulation and the Electric Utility Retail Customer Supply Act of 2006 ("Act"), 26 Del. C. § 1001-1012. ~~Commission Approval only occurs after the staff and public analysis and comment on the proposed IRP, discovery, evidentiary and public hearings, and staff recommendation to the Commission. The acknowledgement of an IRP does not confer or imply Commission approval unless so stated by the Commission.~~ Any specific ratemaking treatment for the plan or any portions thereof is neither directly nor indirectly guaranteed by virtue of the ~~approval. acknowledgement.~~

2.0 Make similar the change to 1.7 in the definition of "Commission Acknowledgement"

"Price Stability" means ~~a relative lack of the~~ variation in the real price paid by SOS customers over the planning period ~~such that SOS customers need not factor expectations of changes in the average level of electricity prices in their decisions.~~

"Environmental Benefit" means the positive environmental impact of environmental services, practices or other ecological influences attained by specific actions, minus the negative environmental impacts caused by those actions. Staff will give due consideration to input from DNREC. ~~Environmental impacts include, but are not limited to, health effects.~~

- 5.7 ~~As part of the evaluation required under paragraph 5.1, The Company shall evaluate all technically feasible and cost effective DR improvements. We summarize the results of here~~ non-Company evaluations of DSM and Conservation ~~that~~ are available through the Sustainable Energy Utility (or other organization as requested by the Commission), ~~the Company shall summarize the results. The summarize shall be on an measure-by-measure basis. The company also shall and provide its own independent judgment of each measure evaluated. The fact that Company relies other non-Company DSM and Conservation evaluations does not relieve the Company of the obligation to integrate such findings into an overall IRP that seeks to systematically and optimally meet customers' needs at minimal cost. actions taken.~~ Where DSM or DR programs are ~~proposed by the Company, itnew, the Company~~ shall summarize the anticipated benefits with respect to load reductions and provide supporting material to justify the new program.

- 6.1.3 Estimate a range of external costs, ~~including, but not limited to, health costs,~~ which may be intangible, ~~on a life-cycle basis, in order~~ to show how explicit consideration of them might affect selection of ~~-options.~~ The ~~Company utility~~ shall ~~attempt to~~ quantify ~~to the maximum extent feasible,~~ the magnitude of the

externalities, for example, in terms of the amount of emissions released and dollar estimates of the costs of such externalities.

- 9.3 Subsequent to the IRP filing and public comment, the Commission and interested State Agencies may acknowledge the filing of the Company's IRP and its compliance with these regulations. ~~Approval~~~~knowledge of the that the IRP complies with the statute~~ shall not guarantee a particular ratemaking treatment of future resource acquisitions. To the extent that the Commission determines that the IRP is not compliant with the statute or is unlikely to meet the goals of the statute, the Company shall revise its IRP to meet these requirements. Rate treatment shall be addressed in rate or other proceedings as filed by the utility or as initiated by the Commission.